REMARKS

This Paper is submitted in response to the final Office Action mailed on August 29, 2006, having a shortened statutory response period ending on November 29, 2006. This Paper is timely filed within two months of the Office Action mail date as October 29, 2006 was a Sunday. The Commissioner is hereby authorized to charge any additional fees to Deposit Account number 02-1818.

Claims 1-13 and 22-27 are pending in this application. Claims 14-21 have been cancelled. Applicants respectfully request that this Paper be entered as it 1) places the claims in a condition for allowance, and 2) requires only a cursory review by the Examiner.

Claims 1-7 and 11-12 were rejected under 35 U.S.C. § 103(a) for allegedly being obvious over U.S. Patent No. 6,371,975 to Cruise et al. (*Cruise*), in view of U.S. Patent No. 4,692,361 to Johnston et al. (*Johnston*). Claims 8, 13 and 22-26 were rejected under 35 U.S.C. § 103(a) for allegedly being obvious over *Cruise* in view of *Johnston* and in further view of U.S. Patent No. 4,910,147 to Bacehowski et al. (*Bachehowski*). Claims 9-10 and 27 were rejected under 35 U.S.C. §103(a) as being obvious over *Cruise* in view of *Johnston* and in further view of U.S. Patent No. 4,936,458 to Bell et al. (*Bell*). Applicants respectfully disagree with and traverse these alleged rejections for the reasons set forth below.

Cruise does not disclose or suggest a flexible folded-film container having opposing first and second walls permanently sealed about a periphery, the permanently sealed walls forming an interior portion, and a 20% albumin concentration stored in the container and contacting the interior portion of the container walls as recited in the present claims. Rather, *Cruise* discloses a rigid syringe 60 filled with albumin solution. *Cruise*, col. 9 lines 5-15, col. 14 lines 1-25, Figures 1 and 7B. Albumin-containing syringe 60 is a component of a kit 14 that may be wrapped in a container 146. *Cruise*, col. 14 lines 1-25, Figure 7B. The albumin is contained in the rigid syringe and thereby contacts the interior rigid sidewall of the syringe. Consequently, the albumin does not contact *Cruise's* container 146. As *Cruise* discloses a rigid syringe body with an albumin solution contacting the syringe interior, *Cruise* fails to disclose or suggest 1) a flexible 2) film-folded container storing a 20% albumin concentration that is 3) in contact with the interior portion of the flexible container walls as recited in the present claims.

Johnston fails to fulfill the deficiencies of *Cruise* as *Johnston* and *Cruise* are not properly combinable. *Cruise* discloses a rigid syringe that contains an albumin solution. *Johnston*, on the

other hand, discloses a flexible container. The skilled artisan would find no motivation to combine these references because such a combination would render the *Cruise* syringe unsuitable for its intended purpose. A syringe body requires rigidity for proper function. Syringe body rigidity is necessary for providing leak-free contact between the plunger and the syringe body. Syringe body rigidity is further necessary to provide appropriate friction between the plunger and the syringe body. This enables the syringe to perform its intended purpose—precision dosage of medical solutions to patients. As a combining *Johnston's* flexible folded-film container body with *Cruise's* rigid syringe would contradict the intended purpose of *Cruise*, *Johnston* and *Cruise* are not properly combinable.

Even assuming *arguendo* that *Cruise's* container 146 is to be considered a bag for storing albumin (which it is not), no motivation exists to combine *Cruise's* container 146 with *Johnston's* permanently sealed flexible container. *Cruise's* container 146 includes a peel seal 148. *Cruise* is explicit that the purpose of the peel seal 148 is to provide "quick access" to the items contained within the container 146. *Cruise*, col. 14 lines 14-16. Replacing peel seal 148 with a permanent seal would prevent quick access to the contents of the *Cruise* container. Thus, no motivation exists to combine *Cruise's* peel seal container 148 with *Johnston's* permanently sealed container as such a combination would contradict the intended purpose of *Cruise's* container 146—namely, the provision of quick access to the container contents.

Bacehowski also fails to fulfill the deficiencies of *Cruise* as *Bacehowski* is not properly combinable with *Cruise*. *Bacehowski* discloses a flexible container for containing cell culture media. *Bacehowski*, col. 2 lines 10-19. Combining *Bacehowski's* flexible container with *Cruise's* rigid syringe would be contrary to the intended purpose of *Cruise* for the reasons set forth above.

Bell teaches away from the film-folded container having permanent peripheral seals. *Bell* discloses a flexible bag made with peripheral peel seals and thereby teaches away from a container having permanent peripheral seals as recited in the present claims. *Bell*, col. 5 line 60 through col. 6 line 16, Figure 1. Teaching away is a *per se* demonstration of non-obviousness. *In re Dow Chemical Co.*, 837 F.2d 469 (Fed. Cir. 1988). Consequently, any combination with *Bell* is likewise *per se* non-obvious.

In summation, *Cruise* does not disclose or suggest a flexible folded-film container with permanently sealed walls and a 20% albumin concentration stored in and contacting the interior

of the container walls as recited in the present claims. *Johnston* and *Bacehowski* are not properly combinable with *Cruise* as each combination would contradict the intended purpose of *Cruise*. Any combination with *Bell* is *per se* non-obvious as *Bell* teaches away from the present claims.

For the foregoing reasons, Applicants respectfully request reconsideration of their patent application and earnestly request an early allowance of same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Ted J. Barthel
Reg. No. 48,769
Cust. No. 29200

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